

City Council Meeting Minutes

**Monday, November 2, 2015
City Hall, Council Chambers
749 Main Street
7:00 PM**

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council: *Mayor Robert Muckle, Mayor Pro Tem Hank Dalton
Council members: Jay Keany, Susan Loo, Chris Leh,
Ashley Stolzmann and Jeff Lipton*

Staff Present: *Malcolm Fleming, City Manager
Heather Balser, Deputy City Manager
Kevin Watson, Finance Director
Kurt Kowar, Public Works Director
Joe Stevens, Parks & Recreation Director
Aaron DeJong, Economic Development Director
Troy Russ, Interim Planning & Building Safety Director
Beth Barrett, Library & Museum Director
Kathleen Hix, Human Resources Director
Meredyth Muth, Public Relations Manager
Dave Hayes, Police Chief
Chris Neves, IT Director
Suzanne Janssen, Cultural Arts/Special Events
Scott Robinson, Planner II
Nancy Varra, City Clerk*

Others Present: *Sam Light, City Attorney*

PLEDGE OF ALLEGIANCE

Ms. May's 3rd grade class from Monarch Elementary led the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda as published, seconded by Council member Keany. All were in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

No public comments.

APPROVAL OF THE CONSENT AGENDA

- A. Approval of the Bills**
- B. Approval of Minutes: October 13, 2015**
- C. Approval to Make December 7, 2015, 5:30 – 10:00 PM and December 8, 2015, 5:30 – 10:00 PM as a Special Meeting for the Purpose of Conducting Board and Commission Interviews**
- D. State Highway 42 and Short Street Geometric Improvements**
 - 1. Approve a Contract between the City of Louisville and KDG Engineering (KDG) for the State Highway 42 and Short Street Geometric Improvements**
 - 2. Approve a Contract Amendment Between the City of Louisville and KDG Engineering (KDG) for the State Highway 42 and Traffic Signal Improvements Construction Management Agreement**

MOTION: Mayor Muckle moved to approve the Consent Agenda, seconded by Council member Loo. All were in favor.

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Council member Loo voiced her congratulations to Louisville resident Isaac Green, a Monarch High School junior cross-country runner, who came in first in the 5A Division, in the state championship.

RECOGNITION OF MAYOR PRO TEM DALTON'S SERVICE 15-MINUTE RECESS RECEPTION

Mayor Muckle explained this is Mayor Pro Tem Hank Dalton's last meeting because he is limited to serving two terms in office. Mayor Muckle stated it was his pleasure to work with Mayor Pro Tem Dalton on the Historic Preservation Tax ballot language, various water issues and multiple budget sessions. He voiced his appreciation to Mayor Pro Tem Dalton for his service to the City of Louisville over the past eight years.

Mayor Pro Tem Dalton stated he had the unique privilege of serving Ward III and the community as a whole. He was thankful for having the opportunity to work with quality staff and the quality of the individual Council members. He stressed it has been a very positive experience. He praised the resilience of the City staff and their ability to manage challenges very well. He expressed his thanks to the Mayor, Council, staff and the residents.

Mayor Muckle presented Mayor Pro Tem Dalton a plaque for his service to the City of Louisville.

Mayor Muckle called for a 15-minutes recess for a reception to honor Mayor Pro Tem Dalton. The meeting recessed at 7:10 p.m., and reconvened at 7:20 p.m.

CITY MANAGER'S REPORT

City Manager Fleming reported Main Street is being resurfaced. Paving will begin tomorrow and should be completed by the end of the week.

REGULAR BUSINESS

LIFE IN LOUISVILLE PHOTOGRAPHY CONTEST

Mayor Muckle requested a staff presentation.

Cultural Arts & Special Events Coordinator Janssen explained 20 Front Range residents submitted photographs depicting "Life in Louisville" for the 8th Annual Photography Contest. These photos chronicle events and daily life from September 5, 2014 through September 8, 2015, and will be added to the City's archives to serve as a cultural reference for future generations. All images are available for public viewing on the City's website and may be used for publication by the City and approved media requests. The artwork selection panel reviewed the 115 submissions; double the responses received in 2014. The panel thanks all of the respondents and encourages continued participation in future years. Staff also thanks the two local photographers, MaryLynn Gillaspie and Erin Cox, and Council Member Keany for their time spent jurying this annual contest.

During the jury process, all entries were separated into six major categories: Black & White, Old Town, People, Nature, Places, and Students. The panel selected the top three photographs in each category and one Grand Prize Winner. In each of the winning photographs, the jury found something unique to Louisville and represents the history, community and sense of place that makes Louisville a great place to live.

Councilmember Keany presented certificates to the winners of each category. The winners of each category are as follows:

Awards for the 2015 Life in Louisville Photography Contest

Student: Second Place
Student: First Place

Sky High
Rainbow over the Grain Elevator

Tori Hodgson
Acadia Biener

Old Town: Third Place	Louisville's Grain Elevator After the Storm 15.1	Craig Kitzman
Old Town: Second Place	St. Louis Catholic Church	Teresa Carney
Old Town: First Place	Color Coordinated; Lafarge Street 15.7	Craig Kitzman
People: Third Place	Running from the Monsters - Family Affair	Kim Sheridan
People: Second Place	Jump to Catch the Sun	Jose A Fuentes
People: First Place	Shopping with Daddy	Kelly Kindrachuk
Black & White: Third Place	Golf Course Reopening	Doug Grinbergs
Black & White: Second Place	Storm Clouds	Teresa Carney
Black & White: First Place	Community Park Event	Doug Grinbergs
Nature: Third Place	New Year Mesa Sunrise	Andy Schwartz
Nature: Second Place	Autumn Reflections	Jackie Friesth
Nature: First Place	Happiest Dog in Louisville	Richard Garcia
Places: First Place	A Train	Teresa Carney
Places: Second Place	Summer Storm Double	Lindsay Hiatt
Places: First Place	Snow White and Red Barn	Richard Laemming Wheeler
GRAND PRIZE WINNER	Happiest Dog in Louisville	Richard Garcia

ADOPTION OF THE 2016 BUDGET

**RESOLUTION No. 79, SERIES 2015– A RESOLUTION SUMMARIZING
EXPENDITURES AND REVENUES FOR EACH FUND AND ADOPTING A BUDGET
FOR THE CITY OF LOUISVILLE, COLORADO, FOR THE CALENDAR YEAR
BEGINNING ON THE FIRST DAY OF JANUARY 2016 AND ENDING ON THE LAST
DAY OF DECEMBER 2016**

**RESOLUTION No. 80, SERIES 2015 – ANNUAL APPROPRIATION RESOLUTION
FOR THE CITY OF LOUISVILLE FOR THE CALENDAR YEAR BEGINNING
JANUARY 1, 2016 AND ENDING DECEMBER 31, 2016**

**RESOLUTION No. 81, SERIES 2015 – A RESOLUTION LEVYING GENERAL
PROPERTY TAXES FOR THE YEAR 2015, TO HELP DEFRAY THE COSTS OF
GOVERNMENT FOR THE CITY OF LOUISVILLE, COLORADO FOR THE 2016
BUDGET YEAR**

Mayor Muckle reopened the public hearing and requested a City Manager presentation.

City Manager Fleming outlined the following resolutions to approve the 2016 budget: Resolution No.79, Series 2015 - Summarizing Expenditures and Revenues and Adopting the Budget for 2016; Resolution No.80, Series 2015 – The Annual Appropriation for the 2016 and Resolution No.81, Series 2015 – Levying General Property Taxes for 2016.

Mayor Muckle requested public comment and hearing none, closed the public hearing.

RESOLUTION No. 79, SERIES 2015

MOTION: Council member Lipton moved to approve Resolution No.79, Series 2015, seconded by Keany. Roll call vote was taken. The motion carried by a vote of 7-0.

RESOLUTION No. 80, SERIES 2015

MOTION: Council member Lipton moved to approve Resolution No. 80, Series 2015, seconded by Mayor Pro Tem Dalton. Roll call vote was taken. The motion carried by a vote of 7-0.

RESOLUTION No. 81, SERIES 2015

City Attorney Light requested the motion reflect a correction to the Resolution's fourth "Whereas" to change the year from 2014 to 2015.

MOTION: Council member Lipton moved to approve Resolution No. 81, Series 2015, as amended by the City Attorney, seconded by Mayor Pro Tem Dalton. Roll call vote was taken. The motion carried by a vote of 7-0.

APPROVAL OF LICENSE, IMPROVEMENT AND ASSISTANCE AGREEMENT WITH THE DOWNTOWN BUSINESS ASSOCIATION FOR THE 2016 STREET FAIRE

Mayor Muckle requested a staff presentation.

Economic Development Director DeJong explained the Street Faire completed its 15th season. It helped foster downtown's growth and relied on volunteers for its operation. For 2016, the Street Faire needs to evolve. There is less volunteer coordination and the operating costs are increasing. The DBA needs City assistance to continue the event for 2016 and beyond.

On Oct. 20th Council considered a formal agreement to assist the DBA. Council members expressed interest in having two City representatives on the Street Faire committee, a profit sharing condition, and a limit to the payment should expenses be greater than revenues. The DBA rejected those proposals.

Proposed Agreement: The 2016 Street Faire season will be a 7 event program. The DBA will create a 5-person Street Faire Committee, including 1 member selected by the City Manager, where the operations of the event are discussed and decided. The DBA maintains artistic autonomy concerning musical palette, genre, band size and budget. The Street Faire financial information will be made available to the City.

The City provides full funding for a Street Faire Coordinator contracted by the DBA.

The Street Faire Coordinator is responsible for coordinating and operations. The Coordinator will be the contact person for all Street Faire items. The Scope of Work for the position is to be created and developed by the Street Faire Committee. The City will review and comment on the Coordinator contract. The City will assist in the publicizing, screening, and contracting for the position.

The City will provide police services at no charge to the DBA. The City will provide parking shuttle service at no cost to the DBA. The Street Faire Coordinator will be responsible for coordinating and operations. The DBA will handle costs and operations of the event except for Police, Street Faire Coordinator, and parking shuttle services.

In the event the revenues are less than the DBA's costs to operate the 2016 Louisville Street Faire, the City will provide a payment equaling 100% of the shortfall within 90 days of the final documentation of the Louisville Street Faire revenues and expenses for the year.

Estimated Costs: 1) City police services \$8,556; 2) Parking Shuttle \$3,578; 3) Street Faire Coordinator \$50,000, and 4) Potential payment for loss from operations \$8,752 for a total of \$70,886. \$75,000 is included in the 2016 Operating Budget.

Staff recommendation: Staff recommended the Council approve the License, Improvement, and Assistance Agreement with the Downtown Business Association.

MOTION: Council member Keany moved to approve the License, Improvement and Assistance Agreement with the Downtown Business Association for the 2016 Street Faire, seconded by Mayor Pro Tem Dalton.

Council member Stolzmann voiced her appreciation for the sentiment of the motion. She felt the public is very attached to having a music festival on Friday nights. She would vote against the motion because she did not feel the agreement was appropriate. She stated the Council has a responsibility to the taxpayers and the agreement does not provide the City the ability to manage the event and presents a lot of uncertainty. She extended her thanks to Chris Pritchard and Jim Tienken for their work on past Street Faires, but felt the event should be looked at from a zero based budget or ground zero perspective. She did not believe the agreement would be able to recreate the DBA's success with the Street Faires and having no end to the funding is a bad idea. She supported having a music festival, but did not feel this was the appropriate action.

Mayor Pro Tem Dalton stated he and several others were responding to the sentiment for continuing the Street Faire next year. This agreement provides the opportunity to try this option to see if the collaboration works, or whether it would require tweaking this year or next. All those options will be on the table next year.

Council member Loo agreed everyone loves the Street Faire, but she would vote against the agreement because Council has a fiduciary responsibility to the taxpayers

not to commit them to an open ended potential loss. She voiced her hope there would not be a loss, but could not philosophically support the agreement.

Mayor Muckle agreed with Mayor Pro Tem Dalton's comments.

Council member Leh supported the agreement, but had reservations about the backstop of funding any loss. He had conversations with Mr. Tienken relative to possibly splitting the risk of loss in the coming years. He felt there is a good feeling about the Street Faire and the desire for it to continue with the DBA's involvement. He did not feel the risk of loss was significant. Mr. Tienken advised him in past years, there have not been losses.

VOTE: Roll call vote was taken. The motion carried by a vote of 5-2. Council members Stolzmann and Loo voted no.

**DELO FLATS PRELIMINARY PLAT AND PUD
SOUTHEAST CORNER OF GRIFFITH STREET
AND CANNON STREET**

- 1. ORDINANCE No. 1704, SERIES 2015 – AN ORDINANCE APPROVING A REZONING OF A 4.39-ACRE PARCEL OF LAND LOCATED AT 1100 GRIFFITH STREET, 1331 CANNON STREET, AND 1301 COURTESY ROAD FROM CITY OF LOUISVILLE INDUSTRIAL (I) ZONING TO CITY OF LOUISVILLE MIXED-USE RESIDENTIAL (MU-CC) – 2nd Reading Public Hearing**
- 2. RESOLUTION No. 78, SERIES 2015 – A RESOLUTION APPROVING A PRELIMINARY SUBDIVISION PLAT, SPECIAL REVIEW USE (SRU) AND A PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD) TO DEVELOP MIXED-USE COMMERCIAL, 13 LIVE/WORK UNITS AND 33 APARTMENT UNITS**

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1704, Series 2015 for rezoning and the companion Resolution No. 78, Series 2015, which approves a Preliminary Subdivision Plat, Special Review Use and a Preliminary PUD to develop mixed-use commercial. This is a public hearing and members of the public may speak to either agenda item.

Mayor Muckle opened the public hearing and requested a staff presentation.

Interim Planning and Building Safety Director Russ explained Resolution No. 78, Series 2015 approves a SRU, Preliminary Plat and Planned Unit Development. Ordinance No. 1704, Series 2015 approves the rezoning of a 4.39-acre parcel from Industrial (I) to Mixed-Use Residential (MU-R) and Commercial Community (CC). The Preliminary

Planned Unit Development reflects the density; bulk and mass and concept level.

DELO FLATS – Preliminary Project Request: Preliminary Plat; Preliminary PUD, SRU and Rezoning. The regulatory documents are the Louisville Municipal Code (LMC); the MUDDSG and it is also reflected in the Highway 42 Framework Plan.

Zoning: The current zoning is Industrial (I). The proposed zoning is mixed-use residential (MU-R) and Commercial Community. The proposed zoning includes ground floor residential along Cannon Street.

Special Review Use: Section 17.08.520: Special Review Use means a use which, although not permitted outright in a particular district, may be permitted by the Planning Commission or the City Council in accordance with the standards and procedures set out in Chapter 17.40.

Criteria #1: The proposed use/development is consistent in all respects with the spirit and intent of the comprehensive plan and of this chapter, and that it would not be contrary to the general welfare and economic prosperity of the City or the immediate neighborhood.

Criteria #2: That such use/development will lend economic stability, compatible with the character of any surrounding established areas.

Criteria #3: That the use/development is adequate for the internal efficiency of the proposal, considering the functions of residents, recreation, public access, safety and such factors including storm drainage facilities, sewage and water facilities, grades, dust control and such other factors directly related to public health and convenience.

Criteria #4: That external effects of the proposal are controlled, considering compatibility of land use; movement or congestion of traffic; services, including arrangement of signs and lighting devices as to prevent the occurrence of nuisances; landscaping and other similar features to prevent the littering or accumulation of trash, together with other factors deemed to affect public health, welfare, safety and convenience.

Criteria #5: That an adequate amount and proper location of pedestrian walks, malls and landscaped spaces to prevent pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks, malls and public transportation loading places from general vehicular circulation facilities.

Staff found the five (5) Special Review USE (SRU) Criteria have been met. Interim Planning and Building Safety Director Russ explained the SRU is not final until the Final Plat and Preliminary PUD. Staff recommended the following architectural details for consideration if the SRU is approved (similar to previous DELO submittals):

Architectural Details- Horizontal Variation:

- Vary the horizontal plane of a building to provide visual interest and enrich the pedestrian experience, while contributing to the quality and definition of the street wall.
- Horizontal variation should be of an appropriate scale and reflect changes in the building function, structure, and materials.
- Avoid extensive blank walls detracting from the experience and appearance of an active streetscape.
- Provide well-marked public and private entrances to cue access and use through compatible architectural and graphic treatments.
- Provide operable doors and windows on the ground floor street front of buildings.
- Main residential buildings entrances should read differently from retail storefronts, restaurants, and commercial entrances.

Architectural Details – Vertical Variation:

- Employ a different architectural treatment on the ground floor façade than on the upper floors, and feature high quality materials to add scale, texture and variety at the pedestrian level.
 - Vertically articulate the street wall façade, establishing different treatment for the building's base and upper floors.
 - Use balconies, fenestration, or other elements to create an interesting pattern of projections and recesses.
 - Provide an identifiable break between the building's ground floor and upper floors. This break shall include a change in material, change in fenestration pattern or similar means.
- Provide more fenestration on the ground floor than upper floors.

Preliminary Plat - 4.39-acres: The replat of three separate plats: 1) Industrial Area Sub (1959); 2) Louisville Trade Center (1984) and 3) Caledonia Place Subdivision (1890).

The Plat divides the parcel into 4 lots and 2 tracts:

- Lots 1-3 = 46 residential units and 54,000 SF commercial development
- Lot 4 establishes the CC boundaries
- Tracts used for public access
- All properties are adequately served by Cannon Street

The 4 lots comply with Title 16 and Section 17.14 of the LMC. The existing structures on Lot 4 are legal Non-conforming. Non-conforming lots are not prohibited. The applicant may replat and rezone a property to include legal non-conforming structures and land uses. If Lot 4 is redeveloped the property must comply with Section 17.14.

Preliminary PUD: 60' Access Easement – Louisville Trade Center: Shown on Plat as a 60' shared access easement and shown on PUD as area designated for parking. Applicant preliminarily shows this as an area for a secondary access. The Applicant shall continue to work with adjacent land owner to clarify the use of this easement.

Preliminary PUD: 1.87 acres in size (2.39 acres for density purposes):

- 46 residential units in total
- 33 Apartments
- 13 Live/work
- (19.25 DU/Acre)
- Height 35'2 stories min.
- 45'3 stories max.
- Must comply with Sec. 8 for transition to RM zone district (no higher than 35' tall 50' from edge of R.O.W.)

BVSD Referral Statement: "A student impact of 4 students on the Louisville Elementary, 1 student on Louisville Middle School and 3 students on Monarch High School feeder system." "Louisville Elementary, however, will likely reach its program capacity within 5 years should growth within the existing housing stock of central Louisville continues at its recent pace. Elementary capacity in Louisville as a whole, however, is ample to accommodate continued enrollment growth".

Waivers: 1) Minimum Sidewalk Width: Not enough detail in development to evaluate need. Staff recommends deferring waiver request until final PUD. 2) Street Trees: Staff does not recommend approval of this waiver, as street trees are a key design feature.

Staff Recommendation: Staff recommended the City Council approve the requested zoning change, SRU, preliminary plat, and preliminary PUD for the development called DELO Flats with the following conditions:

1. Defer the sidewalk width waiver request until final submittal.
2. Remove any reference to a street tree allotment of 1 street per 50 feet of street frontage.
3. Easement concerns, with the Louisville Trade Center Plat, will be resolved prior to final approval.
4. The Applicant shall demonstrate architectural details for the residential buildings along Cannon Street at final PUD.

APPLICANT PRESENTATION

Justin McClure, DELO, RMS, 21 S. Sunset Street, Longmont, CO; Home Address: 125 Cherrywood Lane, Louisville, CO, presented four slides on the proposed DELO proposal. 1) DELO Flats is approximately 2-acres. The Concept Plan is remarkably similar to the original overlay. 2) The MU-CC graphic illustrated Block 4, which is adjacent to Highway 42. 3) This slide illustrated a design product type for a mixed-use, live-work development. 4) A slide presented a different perspective on Cannon Street, which displays a similarity for the multi-family homes at DELO. He noted the Planning Commission supported and approved the DELO Flats Preliminary Plat, Preliminary PUD, SRU and Rezoning.

COUNCIL COMMENT

Council member Stolzmann asked Interim Planning and Building Safety Director Russ about the property zoning of Community Commercial and the presented description of MU-CC. Planning and Building Safety Director Russ explained there are two community commercials in the zoning code; Chapter 17.14 addresses Mixed-Use and Chapter 17.12 addresses Community Commercial.

Council member Stolzmann asked if the units on Lot 1 are attached to one another or independent. Mr. McClure pointed out on the draft concept plan; the proposed individual units would be designated as live-work units. The eight units are proposed to be 90' deep X 30' wide on the ground floor. Some of the buildings are 10,000 SF on the ground floor, with loft spaces to accommodate residential units. The percentage is 66% designated for commercial and 33% for residential. The units are attached and are similar in nature to the units in DELO Phase I.

City Attorney Light inquired if lot lines were being created for eight different lots. Mr. McClure confirmed they will not have lot lines.

Council member Stolzmann explained the idea of live/work came up because single residential units were attached to a mixed-use development. She stated this area already allows mixed use, so she did not understand why this development is being called live/work. She did not believe this fell under the live/work ordinance.

Mr. McClure provided an example in the Plaza/Park area, where there would be four units in each building (30' wide X 90' deep). With the LMC requirements of 66% Commercial and 33% residential, the bottom units would be commercial and the upper units residential. He explained the live/work concept works better in urban areas. It is designed to have businesses generating economic benefits for the City.

Council member Stolzmann did not have a problem with the concept. The area was intended for mixed-use, with the bottom level for retail and the upper floors for residential. Her problem centered on live/work is defined as something else. Mr. McClure explained the housing products will be designed between preliminary and final.

Council member Keany asked for confirmation that 54,000 SF will be guaranteed as commercial/retail. Mr. McClure explained 66% of 54,000 SF would be commercial. Council member Keany asked for confirmation that 36,000 SF must be commercial by City Code. Mr. McClure confirmed. Interim Planning and Building Safety Director Russ explained the uses for the top portions are live/work concept. The applicant is not asking for a ground floor waiver north of the apartment building. The SRU waiver is for the ground floor residential units and not for the live/work units. The live/work concept creates an owner/operator ground floor retail, which shares space with an upper level residential unit. In DELO Phase I and II, there has been a loss of intended ground floor retail. With live/work there is a single unit, instead of multiple units, less residential and less demands on the school and more square footage of commercial

and more sales tax revenue to the City than any of the other previous developments along N. Cannon Street.

Council member Stolzmann asked why it is being referred to as live/work instead of mixed-use. When Council adopted the live/work ordinance it was defined as a single lot with one or more structures combining a commercial activity allowed by right and a single residential living unit. Interim Planning and Building Safety Director Russ explained at preliminary the framework and land uses are requested. Lots 1, 2 and 3 are setting up the framework. Lot 3 is the full residential apartment building and to the north, Lots 1 and 2 are setting up the framework.

Council member Stolzmann addressed the separation of the ownership between the commercial on the first floor and residential on the second floor and noted it is consistent with mixed-use and not live/work, which is considered one unit consisting as ground floor commercial and second story residential. Interim Planning and Building Safety Director Russ clarified one owned unit consists of a commercial business on the bottom level and a residential unit on the second floor. This would be consistent with the Louisville Municipal Code. A separate ownership of each unit would represent a mixed-use environment. Staff believes live/work along Cannon Street creates a market that was not previously available.

Council member Stolzmann asked why they are not being platted as individual properties. Interim Planning and Building Safety Director Russ explained the applicant has not designed the final architecture, so there is not a single lot line to divide. Staff anticipates if this is to be live/work, at Final there will be a final center lot line tied to the architecture so they will have individual lots. Lot 1 will be adjusted into 4 minor lot lines.

Mr. McClure explained they will be individual units. They will be small two-story buildings with a lot of glass in front and garage door, which roll up in the back for services. It provides a lot of flexibility and the opportunity to bring in new uses and product types to Louisville.

Council member Lipton inquired about the entitlements of a Preliminary PUD as it relates to the new financial model. City Attorney Light explained the Preliminary approval entitles the Council to proceed to the Final Development stage of the process. Preliminary Plats and PUD are not recorded and does not create lot lines. A Preliminary PUD is required before going to Final. There is no common law or statutory vested rights created by a Preliminary approval. Common law vested right is only created when a building permit is obtained. Statutory rights are not accrued by the Louisville Municipal Code unless there is a Final PUD. The only exception is a contract with the City Council, which grants Statutory vested rights. With regard to the Fiscal Model, only the SRU expresses right of looking at a criteria of approval in view of economic performance. The Preliminary allows Council to proceed to Final and there are no legally vested rights created on a Preliminary approval. He addressed the Preliminary Plat and noted it is a conceptual lot line proposing separate ownership of land area;

then the Final Plat would come back with different lot configurations if the intent is to create eight individually titled lots.

Interim Planning and Building Safety Director Russ explained SRU Criteria #1 (The proposed use/development is consistent in all respects with the spirit and intent of the comprehensive plan and of this chapter, and would not be contrary to the general welfare and economic prosperity of the City). This has fiscal performance expectations by district and would not be contrary to the general welfare and economic prosperity of the City. This is a mandatory rezoning so staff has not required a fiscal model forum.

Council member Lipton voiced his concern over the proposed 5' sidewalk with respect to ADA compliance. He asked for the applicant to address this issue. Mr. McClure shared Council member Lipton's concern and explained it is a comprehensive design. In DELO Phase I, there was direction from the Public Works staff to remove the trees on Cannon Street. The trees were replaced with ornamental grasses. In the DELO Flats proposal the sidewalk is a tree-lined detached walkway with grass on the west side. He explained there are site constraints prohibiting a wider sidewalk.

Interim Planning and Building Safety Director Russ explained design is an important detail. Staff recognizes the 5' sidewalk on the west until the final design is submitted. He noted there may be no doors opening on to the 5' sidewalk. Mr. McClure stated he wanted a high quality multi-modal process and the developer will work with staff.

Council member Keany inquired about the enforcement in the future for subdividing the commercial unit for a residential addition. Interim Planning and Building Safety Director Russ explained any subdivision of a commercial unit would be reviewed through building permit process, which requires a Planning Department review. At that point the Planning Department would deny the permit. Mr. McClure stated it also would not be permitted on a resale of the property because it would be against the LMC.

Council member Keany inquired about parking and whether it would be primarily surface parking or would there be garage space. Mr. McClure stated it would be primarily surfaces parking, but there would be some garages spaces tucked behind the units. There are two parking spaces, which lie in the back by the roll up garage doors.

PUBLIC COMMENT

Michael Menaker, 1827 W. Choke Cherry Drive, Louisville, CO outlined the process for this development area. He explained it began in 2003 with the Highway 42 Area Plan, the 2006 Urban Renewal Plan and the 2007 Mixed-Use Design Standards and Guidelines. Those documents led to shaping the residents vision for the area. He felt the City now has a partner to execute the vision for the area. He questioned Council's concern over the Preliminary and felt it should receive unanimous support from the City Council. He stated this is what the residents wanted back in 2003, 2006 and 2007. He urged Council to unanimously support this project.

COUNCIL COMMENT

Council member Stolzmann felt if the City wants ground floor commercial it should be mixed-use as designed because it is much easier to enforce. When the property was purchased, the intention for its development was not clear. She supported the zoning ordinance, but felt the resolution failed to meet SRU Criteria #1 and #2 due to the apartment building on the south side. She did not believe it was compatible with the Comprehensive Plan or community character. She felt the northern units attempted to meet the criteria, but felt the best way to achieve ground floor commercial is mixed-use. She felt the best course of action would be to approve the ordinance to change the zoning and remand the SRU back to the Planning Commission for further review on the apartment component and to amend the Plat.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

Mayor Pro Tem Dalton voiced his support for the project and stated he liked the various components of the project and for doing something new. He noted it is the preliminary and if it does not work out or if the Council does not like it at final, they can deny it. He felt the Council should give the project a chance.

Council member Lipton asked Council member Stolzmann why the apartment issue was of such great concern. Council member Stolzmann stated her understanding from the Design Guidelines; this area was to have ground floor retail and be pedestrian friendly. She noted it would have given a different scale to the area and had a different impact to the surrounding residential area. She felt if the units would have been carried further down to the south it would be consistent with what was envisioned.

Mayor Muckle agreed this was not originally envisioned, however the Council has granted multiple SRU's in this area and recognized the mixed-use ground floor commercial spaces could not be sold. He did not believe this sets a precedence of giving ground floor commercial preference.

Council member Stolzmann proposed in the future the Council should amend the plan and then use criteria to make decisions rather than just arbitrarily deviate and grant SRU's not based on all the criteria. Interim Planning and Building Safety Director Russ explained this is a preliminary and Council is not granting the SRU. SRU's are only granted at final. There are specific design details necessary to explain a scalable land use or a conditional use, which are not presented at the preliminary. Council created a ground floor retail as an SRU in 2012. Council's action today does not grant approval, rather it allows the developer to go forward to finalize the architecture, where Criteria #1 and #2 can actually be evaluated.

Council member Lipton did not want Council to approve something at preliminary and then change their minds at final. He understood the preliminary was not binding, but felt there should be more apartment buildings added to the housing stock. He supported

the project and felt it was consistent with the needs and desires of the community.

Council member Stolzmann stated in addition to the SRU, she did not feel the request complies with the PUD requirements.

ORDINANCE No. 1704, SERIES 2015

MOTION: Council member Keany moved to approve Ordinance No. 1704, Series 2015, on second and final reading, seconded by Mayor Pro Tem Dalton. Roll call vote was taken. The motion passed by a vote of 7-0.

City Attorney Light suggested a revision to the title of Resolution No. 78 to change the 13 live/work to 13 attached residential units. He also noted there was a red-lined version of the resolution presented with versions to the resolution.

Interim Planning Building and Safety Director Russ explained by making that change it would erase the commercial component. Passing the resolution would create a framework for the final to have the appropriate lot lines to create the 13 residential units.

Council member Keany commented this is a resolution on a preliminary and a final PUD would come forward. If the applicant decides to reduce the number of apartments or increase the number of live/work units, the City Council would favor those changes.

Mayor Muckle was comfortable with the unmodified title to the resolution.

RESOLUTION No. 78, SERIES 2015

MOTION: Council member Keany moved to approve Resolution No. 78, Series 2015, as amended by the red-line version, seconded by Mayor Pro Tem Dalton. The vote was 6-1. Council member Stolzmann voted no.

Mr. McClure thanked the City Council for their consideration. He thanked Mayor Pro Tem Dalton for his service.

DISCUSSION/DIRECTION/ACTION – CITY-WIDE MARGINAL COST FISCAL MODEL

Mayor Muckle requested a staff presentation.

Planner II Robinson explained the City contracted TischlerBise, Inc. to create a new marginal cost fiscal impact model to replace the City's current average cost model. The fiscal model is used to estimate the fiscal impacts of proposed development. The fiscal model takes proposed development by land use type (retail, office, residential, etc.) and other inputs and computes projected tax and other revenues and projected operational and capital expenditures.

City's Objective: Develop a marginal-cost fiscal impact model to demonstrate the impact of land development applications; City will use to model land use and development scenarios; should reflect current capacities of City departments; account for different financing scenarios and easy to update.

Fiscal Impact Models: Project Based Fiscal Impact Model (Average Cost Hybrid Approach) – Small individual projects.

Citywide Fiscal Impact Model: (Case Study Marginal Approach) Long range planning.

The Consultant and staff worked on the Marginal Cost Model for one year. City Council reviewed the model in May and expressed their concerns. The Council referred the Model to the Finance Committee for their review and revision. The Finance Committee met multiple times over the last six months and worked out the issues. The Finance Committee was satisfied with the assumptions in the model and how they are used to calculate outcomes. Staff recommended the City Council approve the City-wide Marginal Cost Fiscal Impact Model. Once the Marginal Cost Model is adopted the same assumptions will be used in the hybrid model.

COUNCIL COMMENT

Council member Keany noted the Finance Committee reviewed the document multiple times and made revisions. They understand this is not a final document and it will be adjusted and changed. Once the Planning Department begins to use the model it will provide an opportunity to run more than one scenario. The Finance Committee believes the calculations are correct and recommend Council approval of the City-wide Marginal Cost Fiscal Model.

Council member Stolzmann supported the Model. She noted there is a difference in the acreages listed in the Parks Master Plan and the Open Space Master Plan. She stated it was important the acreage was not double counted. She noted as new parks come in, the numbers will be updated.

Mayor Muckle stressed the importance of the Planning Department being able to use the model to make cost analysis on more than one scenario.

Council member Lipton referred to a table addressing the demand for community park land and open space as new residential units are added and felt it was reversed. Planner II Robinson explained the method of calculation involves taking the total amount of open space acreage and dividing it by the number of residents. Because there is more open space land than there is park land, acreage for open space is higher than park land.

Council member Lipton asked if it assumes the current level of service is adequate in both categories. Council member Stolzmann explained capacities were set.

Council member Keany noted parks are actually counted twice; once for neighborhood parks and community parks.

Council member Lipton commented on the fiscal model and stated it was a major improvement. He commended the consultant, staff and the Finance Committee for their work. He looked forward to using the Marginal Cost Fiscal Model

MOTION: Council member Keany moved to approve the City-wide Marginal Cost Fiscal Model, seconded by Council member Loo. All were in favor.

ORDINANCE No. 1705, SERIES 2015 – AN ORDINANCE REPEALING CHAPTER 14.20 AND AMENDING SECTIONS 4.020.030, 8.12.170, 8.12.200 AND 8.12.240 OF THE LOUISVILLE MUNICIPAL CODE REGARDING THE PARKS AND PUBLIC LANDSCAPING ADVISORY BOARD – 2nd Reading – Public Hearing

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance 1705, Series 2015.

Mayor Muckle opened the public hearing and requested a staff presentation.

Public Relations Manager Muth explained on September 15 the City Council passed Resolution No. 65, Series 2015 converting the Horticulture and Forestry Advisory Board (HFAB) into the Parks and Public Landscaping Advisory Board as of January 1, 2016. The Ordinance No. 1705, Series 2015 removes Chapter 14.20 of the Louisville Municipal Code (LMC) in its entirety as this chapter deals only with the creation and duties of the HFAB. Additionally, it updates all other sections of the code mentioning HFAB and replaces it with the Parks and Public Landscaping Advisory Board.

As a matter of clarification, Section 2 of the ordinance related to section 4.02.030.A.1 of the LMC “initial duties of the board shall include an inventory of city open space” relates to the duties of the Open Space Advisory Board and how it interacts with other boards. It is not asking the Parks and Public Landscaping Board to complete this inventory. Without the rest of the information from the LMC this clause may be confusing, therefore an explanation was provided.

Staff recommendation: The City Council approve Ordinance No. 1705, Series 2015 on second and final reading.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

MOTION: Mayor Pro Tem Dalton moved to approve Ordinance No. 1705, Series 2015 on second and final reading, seconded by Council member Loo.

Council member Leh inquired why an inventory of City Open Space was listed among

the duties of the new Board. Public Relations Manager Muth explained the duties actually lie with the Open Space Advisory Board.

Council member Leh recommended clarifying this section. City Manager Fleming clarified that the phase does in fact apply to the Open Space Advisory Board and not the Parks and Public Landscaping Advisory Board.

VOTE: Roll call vote was taken. The motion carried by a vote of 7-0.

PURCHASING POLICY – CONTINUED FROM 9/15/2015

- 1. RESOLUTION No. 62, SERIES 2015 – A RESOLUTION AMENDING CITY OF LOUISVILLE PURCHASING POLICIES**
- 2. ORDINANCE No. 1701, SERIES 2015 – AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 3.08 OF THE LOUISVILLE MUNICIPAL CODE PERTAINING TO THE PROCUREMENT OF GOODS, SERVICES AND CONTRACTS FOR PUBLIC WORKS – 2nd Reading – Public Hearing**

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance 1701, Series 2015 and Resolution No. 62, Series 2015. He recommended a staff presentation be on both agenda items.

Mayor Muckle opened the public hearing and requested a staff presentation.

Public Relations Manager Muth explained at the September 15 City Council meeting the Council reviewed staff's proposed change to the City's Purchasing Policy. The policy allows the City Manager approval of purchases up to \$99,999.99 as long as the purchase is already approved in the annual budget and provided the purchase does not have policy implications that have not been addressed by the City Council. The Council stated they generally approved of the new limit for simple purchases but had concerns for items such as contracts, requests for proposals, and items over budget. Staff suggests amending the language in the policy to the following: "Additional Considerations: Any proposed purchase in the following categories shall require City Council approval":

- Any request for proposal for consulting services over \$50,000;
- Any sole source item over \$50,000;
- Any item over \$50,000 that is more than 10% over the approved budget;
- Any item with policy implications not previously addressed and resolved by City Council. Further, every City employee responsible for approving any contract—regardless of the dollar amount—shall refer to the City Manager for consideration any contract they believe may have such policy implications.

The Finance Committee reviewed the changes at their October 19 meeting and

approved the changes. Staff recommended City Council approval of Resolution No. 63, Series 2015, and Ordinance No. 1701, Series 2015.

COUNCIL COMMENT

Mayor Muckle reported the Finance Committee supported the ordinance and resolution.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

RESOLUTION No. 62, SERIES 2015

MOTION: Council member Keany moved to approve Resolution No. 62, Series 2015, seconded by Mayor Pro Tem Dalton. All were in favor.

ORDINANCE No. 1701, SERIES 2015

MOTION: Council member Keany moved to approve Ordinance No. 1701, Series 2015, seconded by Mayor Pro Tem Dalton. Roll call vote was taken. The motion carried by a vote of 7-0.

ORDINANCE No. 1697, SERIES 2015 – AN ORDINANCE AMENDING SECTIONS 3.08.030, 13.12.020 AND 13.12.040 OF THE LOUISVILLE MUNICIPAL CODE TO ADDRESS WATER SERVICE CONNECTIONS AND WATER TAP FEES FOR LIVE-WORK LAND USES – 2nd Reading – Public Hearing – Staff Requested a Continuance to December 15, 2015

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1697, Series 2015 and noted staff recommends the City Council continue this matter to December 15, 2015.

MOTION: Mayor Muckle moved to continue Ordinance No. 1697, Series 2015 to December 15, 2015, seconded by Council member Lipton. All were in favor.

ORDINANCE No. 1706, SERIES 2015 – AN ORDINANCE AMENDING CHAPTER 2.32 OF THE LOUISVILLE MUNICIPAL CODE TO INCREASE THE SALARY OF THE PRESIDING MUNICIPAL JUDGE – 1st Reading – Set Public Hearing – 11/17/2015

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1706, Series 2015.

MOTION: Mayor Muckle moved to approve Ordinance No. 1706, Series 2015 on first reading, ordered it published and set a public hearing for November 17, 2015, seconded by Mayor Pro Tem Dalton. All were in favor.

ORDINANCE No. 1707, SERIES 2015 – AN ORDINANCE AMENDING THE CITY’S NUISANCE ABATEMENT LAWS AND OTHER CRIMINAL ORDINANCES IN CONNECTION THEREWITH; AMENDING SECTION 9.04.040 OF THE LOUISVILLE MUNICIPAL CODE TO ESTABLISH THE MUNICIPAL OFFENSE OF FAILURE TO APPEAR; AMENDING THE DOLLAR LIMITS FOR PROPERTY OFFENSES IN SECTIONS 9.46.010 AND 9.04.020 OF SUCH CODE; AMENDING THE CLASSIFICATION OF TRAFFIC INFRACTIONS UNDER SECTIONS 904 AND 1416 OF THE CITY-ADOPTED MODEL TRAFFIC CODE, AND AMENDING SECTION 4.04.100 OF SUCH CODE TO MAKE VIOLATIONS OF OPEN SPACE REGULATIONS PUNISHABLE UNDER THE GENERAL PENALTY PROVISION OF THE CODE – 1st Reading – Set Public Hearing 11/17/2015

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1707, Series 2015. The ordinance updates the nuisance sections of the Code,

MOTION: Mayor Muckle moved to approve Ordinance No.1707, Series 2015 on first reading, ordered it published and set a public hearing for November 17, 2015, seconded by Mayor Pro Tem Dalton. All were in favor.

CITY ATTORNEY’S REPORT

No items to report.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

Mayor Muckle reported tomorrow, November 3rd is Election Day and ballots are due back to the County by 7:00 p.m. He encouraged all registered voters to vote. He noted the Steinbaugh Pavilion is a drop off site for ballots.

ADJOURNMENT

Mayor Muckle moved to adjourn, seconded by Mayor Pro Tem Dalton. All were in favor. The meeting was adjourned at 9:20 p.m.

Robert P. Muckle, Mayor

Nancy Varra, City Clerk